

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Application of : R. Dennis Nesbitt
 : MULTI-CORE, MULTI-LAYER COVER
 : GOLF BALL
 Serial No. : 09/877,835
 Filed : June 8, 2001
 Art Unit No. : 3711
 Examiner : A. Hunter
 Date of Last Action : November 27, 2002
 Customer No. : 24492 RECEIVED
 Confirmation No. : 2483 MAR 25 2003
 Attorney Docket No. : P-5686U1-C1-1 OFFICE OF PETITIONS
 : (SLDZ 200214-3)

Cleveland, Ohio 44114-2518
 January 15, 2003

PETITION FOR APPLICATION FILING DATE

Assistant Commissioner for Patents
 Washington, D.C. 20231

Dear Sir:

This is a Petition that the above-captioned application be accorded a filing date of June 8, 2001. A check in the amount of \$130 is enclosed for the petition fee. Please charge any fee deficiencies or credit any over payment to Deposit Account No. 06-0308.

CERTIFICATE OF MAILING

I hereby certify that this correspondence and related papers are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on 1/16/03.

By: Mary Ann Temesvari
 Mary Ann Temesvari

The present application comprising 59 pages of specification, 4 pages of claims (20 total with 3 independent claims), 1 page of abstract, and 3 sheets of drawings was filed by Express Mail with the U.S. Patent and Trademark Office on June 8, 2001. An unsigned Declaration was included with the filing of this application.

In response to that filing, on June 26, 2001, a Notice to File Missing Parts of Nonprovisional Application (copy attached as Exhibit A) was mailed by the PTO to Applicant. That Notice indicated a filing date of June 8, 2001.

An executed Declaration and Response to Missing Parts Notice was filed by Applicant on August 2, 2001.

Prosecution ensued.

Suddenly and nearly a year and a half after the filing of the application, on November 27, 2002, the PTO mailed a withdrawal of Previously Sent Notice (Exhibit B) and included a "Corrected Notice." This corrected Notice (Exhibit C) stated that a "filing date has NOT been accorded to the...application." Allegedly, according to the PTO, the application that was filed on June 8, 2001, did not contain any drawings. And, pursuant to 35 U.S.C. § 113, a drawing is required "where necessary for the understanding" of the claimed invention.¹

Applicant and its attorneys have reviewed this matter and believe that the application originally filed June 8, 2001 included three (3) sheets of drawings and for some unknown reason, the PTO's present records are in error. Accordingly, the Notices from the PTO on November 27, 2002 (Exhibits B and C) are in error. Furthermore, it is respectfully urged that the previously recognized filing date for this application of June 8, 2001 be recognized.

Specifically, Applicant's attorneys, who filed this application, reviewed their file. Contained in that file was a postcard submitted concurrently with the Express Mailing of this application on June 8, 2001 that indicated that the application included three (3) sheets of drawings. A copy of that postcard is attached as Exhibit D.

Additional evidence that the original application filed on June 8, 2001

¹ The paper entitled "Withdrawal of Previously Sent Notice" (Exhibit B) also asserted that a Notice mailed on October 4, 2002 was sent. Applicant, nor its attorneys, never received any Notice in this regard on or about that date.

contained three (3) sheets of drawings is found from the stamped postcard received by and returned to Applicant's attorneys by the PTO. That postcard containing the PTO date receipt stamp, lists the application filed on June 8, 2001 as containing the drawings at issue. A copy of that stamped postcard is attached as Exhibit E.

An Affidavit as to the application and its filing is included herewith as Exhibit F. In that Affidavit, the attorney signing the application transmittal papers on June 8, 2001, recalls that, to the best of his knowledge, the application filed on June 8, 2001 contained the three (3) pages of drawings referenced on the corresponding postcard.

It would be significantly damaging and inequitable to deny the June 8, 2001 filing date to Applicant. In addition to the foregoing noted evidence, all supporting the previously recognized June 8, 2001 filing date, the specification of the originally filed application repeatedly refers to Figs. 1-5 on the three (3) sheets of drawings at issue. That is, these drawing sheets were clearly in existence at the time of filing the present application and are in no way an attempt to add "new matter."

Accordingly, Applicant and its attorneys respectfully request the PTO to acknowledge that the application filed on June 8, 2001 included the three (3) sheets of drawings at issue. Upon such acknowledgement, there should be no further issue and the June 8, 2001 filing date should be recognized.

Respectfully submitted,

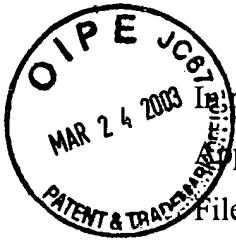
FAY, SHARPE, FAGAN,
MINNICH & MCKEE, LLP


Richard M. Klein
Reg. No. 33,000
Mark E. Bandy
Reg. No. 35,788
1100 Superior Avenue
Suite 700
Cleveland, Ohio 44114-2579
(216) 861-5582

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OFFICE OF PETITIONS



DAG 12

P-5686U1-C1-1 **PATENT**
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re patent application of: R. Dennis Nesbitt

Application No.: 09/877,835

Examiner: A. Hunter

Filed: June 8, 2001

Group Art Unit: 3711

For: MULTI-CORE, MULTI-LAYER COVER GOLF BALL

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OFFICE OF PETITIONS

Box DAC
Commissioner of Patents and Trademarks
Washington, DC 20231

REQUEST FOR RECONSIDERATION AND
RENEWED PETITION FOR APPLICATION FILING DATE

Dear Sir:

This is a request for reconsideration of the Decision Dismissing Petition under 37 C.F.R. 1.53(e) mailed March 11, 2003. The Decision dismissed Applicant's petition requesting that the above identified application be accorded a filing date of June 8, 2001.

The reason for the dismissal for the Petition was because "petitioners have not supplied a copy of the three (3) sheets of drawings allegedly filed on 8 June, 2001. Petitioners must supply a copy of the three (3) sheets of drawings with a renewed petition."

Accompanying this request for reconsideration are: (1) a copy of the three (3) drawing sheets filed June 8, 2001; (2) a copy of the previously filed Petition for Application Filing Date; and (3) a copy of the Decision on Petition.

Please charge any fees associated with this Request for Reconsideration and Renewed Petition for Application Filing Date to Deposit Account No. 17-0150.

CERTIFICATE OF MAILING (37 C.F.R. 1.8a)

I hereby certify that this correspondence and related papers are being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents & Trademarks, Box DAC, Washington, D.C. 20231 on this 17th day of March, 2003.

Leslie A. Tzivianis
Leslie A. Tzivianis

CONCLUSION

In view of the foregoing, it is respectfully requested that the previously submitted Petition for Application Filing Date be granted, and this application be accorded the filing date of June 8, 2001. If there are any issues remaining, the Examiner is invited to telephone Applicant's attorney.

Respectfully submitted,
R. DENNIS NESBITT

Date: March 17, 2003
Registration No. 42,370
Customer No. 24492.
(413) 322-2937

By: Michelle Bugbee RECEIVED
Michelle Bugbee MAR 2 5 2003
Associate Patent Counsel
Attorney for Applicant
Spalding Sports Worldwide, Inc.
425 Meadow Street, P.O. Box 90
Chicopee, Massachusetts 01021-0901
OFFICE OF PETITIONS

cc: SSW Dep. Acct.
Richard M. Klein, Esq. (SLDZ 2 00214-3)



Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/877,835	06/08/2001	R. Dennis Nesbitt	SLD 20214-3

Michelle Bugbee
Spalding Sports Worldwide, Inc.
425 Meadow Street
P.O. Box 901
Chicopee, MA 01021-0901

CONFIRMATION NO. 2483
FORMALITIES LETTER



OC00000009168350

Date Mailed: 11/27/2002

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*

*A copy of this notice **MUST** be returned with the reply.*

Thank V.

Customer Service Center

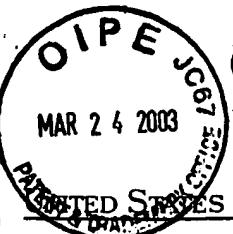
Initial Patent Examination Division (703) 308-1202

PART I - ATTORNEY/APPLICANT COPY

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OFFICE OF PETITIONS



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/877,835	06/08/2001	R. Dennis Nesbitt	SLD 20214-3 P-5686U1-C1-1

CONFIRMATION NO. 2483

FORMALITIES LETTER



OC000000006225179

Michelle Bugbee
Spalding Sports Worldwide, Inc.
425 Meadow Street
P.O. Box 901
Chicopee, MA 01021-0901

Date Mailed: 06/26/2001

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

- The oath or declaration is unsigned.
- To avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(e) of \$130 for a non-small entity, must be submitted with the missing items identified in this letter.
- The balance due by applicant is \$ 130.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

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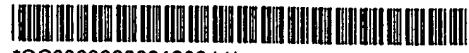


Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/877,835	06/08/2001	R. Dennis Nesbitt	SLD 20214-3

Michelle Bugbee
Spalding Sports Worldwide, Inc.
425 Meadow Street
P.O. Box 901
Chicopee, MA 01021-0901

CONFIRMATION NO. 2483
WITHDRAWAL NOTICE



OC00000009168344

Date Mailed: 11/27/2002

WITHDRAWAL OF PREVIOUSLY SENT NOTICE

The Notice mailed on 10/04/2001 was sent in error and is hereby withdrawn. A corrected Notice is enclosed. The time period for reply runs from the mail date of the corrected Notice. We apologize for any inconvenience this caused.

A copy of this notice MUST be returned with the reply.

Thank You

Customer Service Center
Initial Patent Examination Division (703) 308-1202

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MAR 25 2003

OFFICE OF PETITIONS



Commissioner for Patents
Washington, DC 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/877,835	06/08/2001	R. Dennis Nesbitt	SLD 20214-3

Michelle Bugbee
Spalding Sports Worldwide, Inc.
425 Meadow Street
P.O. Box 901
Chicopee, MA 01021-0901

CONFIRMATION NO. 2483
FORMALITIES LETTER



OC00000009168350

Date Mailed: 11/27/2002

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

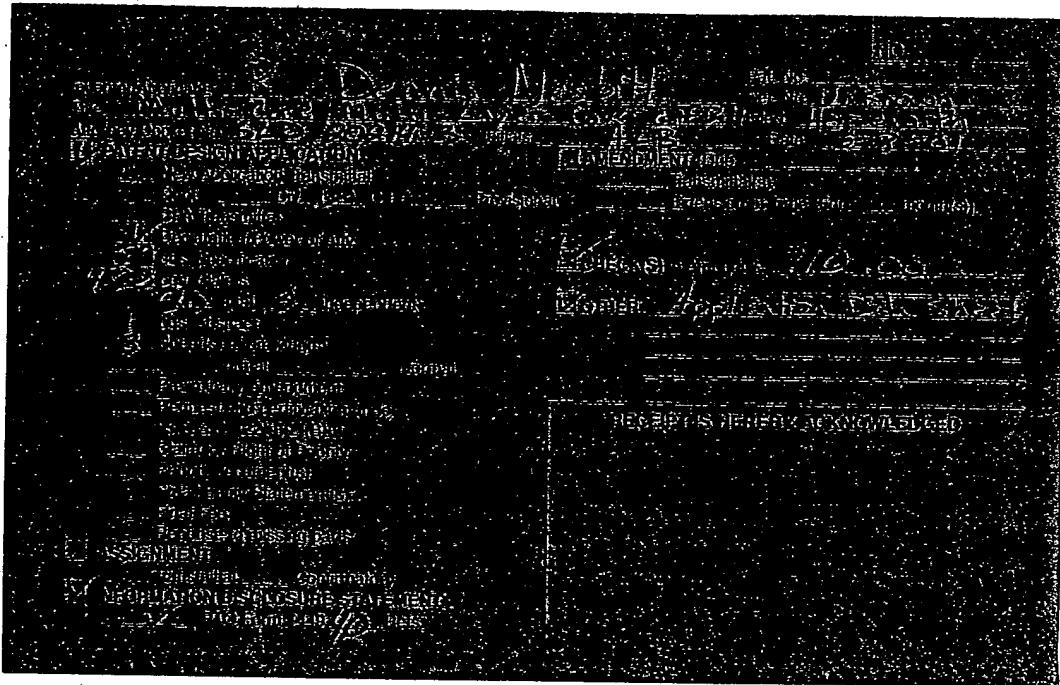
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BEST AVAILABLE COPY





Inventor/Applicant: <i>R. Dennis Nesbitt</i>		Pat. No.
Title: <i>MULTI-CORE MULTI-LAYER CORD CUFF</i>		Ser. No. <i>Unknown</i>
Attorney-Docket No. <i>SLD 20014-3</i>		Filed <i>Apr 8 2001</i>
Initials - <i>ALB</i>		Date <i>6-8-01</i>
<input checked="" type="checkbox"/> PATENT/DESIGN APPLICATION		
New Application Transmittal		
Cont.	Div. <input checked="" type="checkbox"/> C-I-P	Provisional
<input checked="" type="checkbox"/> CPA Transmittal		
Declaration/Power of Atty. <i>59</i>		
pgs. Specification <i>300</i>		
pgs. Claims <i>3</i>		
total <i>3</i> independent		
1 pgs. Abstract		
3 Sheet(s) of drawing(s)		
formal informal		
Preliminary Amendment		
Request and certification under 35 U.S.C. 122(b)(2)(B)(i)		
Claim for Right of Priority		
Priority document(s)		
Small Entity Statement(s)		
Final Fee		
Response to missing parts		
<input type="checkbox"/> ASSIGNMENT		
<input checked="" type="checkbox"/> Transmittal <input type="checkbox"/> Confirmatory		
<input checked="" type="checkbox"/> INFORMATION DISCLOSURE STATEMENT		
PTO Form 1449 <i>40</i> Refs.		
NO.		
<input checked="" type="checkbox"/> AMENDMENT (Due _____) Transmittal(s) Extension of Time (For _____ month(s))		
<input checked="" type="checkbox"/> CHECK(S) in Amount \$ <i>710.00</i>		
<input checked="" type="checkbox"/> OTHER <i>Application Data Sheet</i>		
RECEIPT IS HEREBY ACKNOWLEDGED		
J1033 U.S. PTO 09/877835 06/08/01		

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OFFICE OF PETITIONS



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : R. Dennis Nesbitt
For : MULTI-CORE, MULTI-LAYER COVER
GOLF BALL
Serial No. : 09/877,835
Filed : June 8, 2001
Art Unit No. : 3711
Examiner : A. Hunter
Date of Last Action : November 27, 2002
Customer No. : 24492
Confirmation No. : 2483
Attorney Docket No. : P-5686U1-C1-1
(SLDZ 200214-3)

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OFFICE OF PETITIONS

Cleveland, Ohio 44114-2518
January 15, 2003

AFFIDAVIT FOR PETITION FOR APPLICATION FILING DATE

Assistant Commissioner for Patents
Washington, D.C. 20231

I, Richard M. Klein, am an attorney with the law firm of Fay, Sharpe et al. for the assignee of the above-captioned patent application. I declare the following:

1. On June 8, 2001, I attended to the preparation and filing of the above-captioned patent application.
2. I reviewed the application prior to its submittal via Express Mail to the U.S. Patent and Trademark Office (PTO) on June 8, 2001. I signed and dated an application transmittal letter filed with this application on June 8, 2001. To the best of my knowledge, that application, as evidenced on a postcard

also submitted along with the application to the PTO on that same date, included 59 pages of specification, 4 pages of claims (20 total with 3 independent claims), 1 page of abstract, and 3 sheets of drawings. An unsigned Declaration was included with the filing of the application.

3. As far as I am aware, that application, postcard, unsigned Declaration, an Information Disclosure Statement and 1449 forms, and a check in the amount of \$710.00 for the application filing fee was mailed by Express Mail on June 8, 2001 to the PTO.

4. The application filing papers contained a Certificate of Express Mailing. That Certificate indicates an Express Mail label number of EL 852784257US; and a date of deposit of June 8, 2001. The individual who signed that certificate is Ms. Abigail Boone. Ms. Boone is no longer employed with Fay, Sharpe et al., i.e. the law firm handling the present application. Ms. Boone has, as far as I am aware, moved out of state.

5. A return receipt postcard submitted with the filing of this application was received from the PTO. That postcard contained a PTO receipt date of June 8, 2001. That return receipt postcard lists that three (3) sheets of drawings, as part of this application, had been received by the PTO on June 8, 2001.

FURTHER AFFIANT SAYETH NAUGHT.

1/15/2003
Date

R. Klein
Richard M. Klein

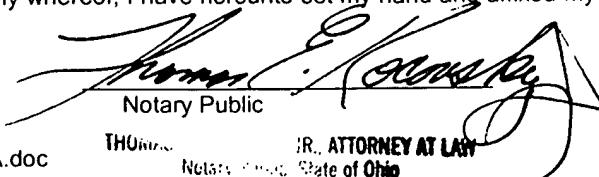
STATE OF OHIO)
COUNTY OF CUYAHOGA)
) ss

Personally appeared before me this day, the above named Richard M. Klein, to me personally known, who acknowledged that he signed the foregoing instrument for the uses and purposes therein mentioned, and that the same is his free act and deed.

January

In testimony whereof, I have hereunto set my hand and affixed my seal, this 15th day of

2003.


Notary Public
J.R. ATTORNEY AT LAW
Notary Public State of Ohio
My Commissioned No. No Expiration Date



UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS
 UNITED STATES PATENT AND TRADEMARK OFFICE
 WASHINGTON, D.C. 20231
www.uspto.gov
 DW 0303

Paper No. 141 2003

MICHELLE BUGBEE
 SPALDING SPORTS WORLDWIDE, INC.
 425 MEADOW STREET
 P.O. BOX 901
 CHICOPEE MA 01021-0901

COPY MAILED

MAR 11 2003

OFFICE OF PETITIONS

In re Application of	:
R. Dennis Nesbitt	:
Application No. 09/877,835	: DECISION DISMISSING
Deposited: 8 June, 2001	: PETITION
Attorney Docket No. SLD 20214-3	:

This is a decision on the petition filed on 21 January, 2003, which is treated as a petition under 37 CFR 1.53(e) requesting that the above identified application be accorded a filing date of 8 June, 2001.

The petition is **dismissed**.

The application was deposited on 8 June, 2001. On 27 November, 2002, however, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that the filing date would be the date that the drawings were received. A two (2)-month period for reply was set.

In response, the present petition was filed on 21 January, 2003, in which petitioner asserts that the application, as filed, included three (3) sheets of drawings. In support, the petition is accompanied by a copy of petitioner's return receipt postcard bearing a USPTO Office stamp with an "Office-date" of 06/08/01 and the above-identified application number and itemizing the filing of three (3) sheets of drawings.

The petition is **dismissed** without prejudice to reconsideration because petitioners have not supplied a copy of the three (3) sheets of drawings allegedly filed on 8 June, 2001. Petitioners must supply a copy of the three (3) sheets of drawings with a renewed petition.

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OFFICE OF PETITIONS

Any request for reconsideration should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely. This time period may not be extended pursuant to 37 CFR 1.136. The application will be retained in the Office of Petitions for **TWO (2) MONTHS** to await petitioner's reply to this decision. If no response is received within two (2) months, the application will be forwarded to the Office of Initial Patent Examination for further processing as an incomplete application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23
2201 South Clark Place
Arlington, VA 22202

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6918.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions